

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5

HOWMET CASTINGS & SERVICES, INC.

Employer

and

Case 5-RC-15855

UNITED STEELWORKERS OF AMERICA,  
DISTRICT 8, AFL-CIO, CLC

Petitioner

**DECISION AND DIRECTION OF ELECTION**

The issues in this proceeding are: (1) whether the approximately 40 team leaders in the industrial gas turbine (“IGT”) manufacturing and structural (“HSC”) manufacturing departments are supervisors within the meaning of the Act; (2) whether approximately seven quality assistance technicians<sup>1</sup> share a community of interest with the production and maintenance (“P&M”) employees sufficient to compel their inclusion in the bargaining unit; and (3) whether approximately six document control employees are plant clericals who must be included in the P&M unit or office clericals who must be excluded from the bargaining unit. There is no relevant history of collective bargaining.

The Petitioner (“Union”) seeks to represent all production and maintenance employees, hourly and non-exempt salaried (“NES”) employees, including shipping and receiving and tool room employees employed by Howmet Castings & Services, Inc. at its Hampton, Virginia facility, excluding all office clerical employees, professional employees, temporary employees, lead employees, quality assurance employees, environmental health and safety employees, guards, confidential employees and supervisors as defined by the Act. The Petitioner contends that: (1) the team leaders at issue are supervisors within the meaning of the Act and should be excluded from the unit;

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<sup>1</sup> Of these seven employees, five are titled quality assurance technicians, one is titled quality systems technician, and one is titled quality auditor.

(2) the quality assurance technicians (“QAT”) are technical employees who do not share a community of interest with the petitioned for unit and should be excluded from the unit; and (3) the document control employees should be excluded from the unit as technical employees who do not share a community of interest with the production and maintenance employees. There are approximately 540 employees in the petitioned-for unit.

The Petitioner did not state, at hearing or in its brief, whether it is prepared to proceed to an election in any unit found appropriate by the Regional Director.

The Employer (“Howmet”) maintains that: (1) the team leaders at issue are not supervisors within the meaning of the Act and should be included in the unit; (2) the quality assurance technicians share a community of interest with the petitioned-for employees such that they must be included in the unit; and (3) the document control employees are plant clericals and thus must be included in the bargaining unit.

I have carefully considered the evidence and arguments presented by the parties on these issues. As discussed below, I conclude that the team leaders are supervisors within Section 2(11) of the Act and therefore must be excluded from the unit. Additionally, I find that the QAT employees share a community of interest with the petitioned-for employees and should be included in the unit. Finally, I conclude that the document control employees are plant clericals and thus must be included in an appropriate unit.

The Employer presented testimony from the following Howmet employees: Robert Baker, Plant Manager; William Lennon, Human Resources Manager; Paul Tasca, Quality Assurance Manager; John Klepeisz, Structural Division Manager; Gary Lawson, IGT Post-Cast Operations Manager; and John Tarnacki, IGT Pre-Metal Operations Manager. The Petitioner presented testimony from P&M operators and inspectors Valerie Ward, Bessie Parker, Cleophus Bailey, Robert Henry, Billy Mason, Tyrone Morris, Tolbert Munn, Quinetta Valentine, Cedric Wilson and Frances Hardy. Of Petitioner’s witnesses, Ward, Parker, Bailey, Henry, and Morris are former team leaders.

## **FACTUAL SETTING**

### **Organizational Structure**

The Howmet facility is a manufacturing plant responsible for producing nickel and cobalt super alloy and titanium investment castings for the IGT industry, power generation, as well as large air craft and other structural castings (HSC). The plant is divided into ten separate divisions. The Union seeks to represent production and maintenance employees in five of them: shared resources; IGT pre-cast; IGT post-cast; structural (HSC); and facilities support. The Employer agrees that production and maintenance employees in these divisions should be included in the unit, but contends that the team leaders working with the P&M employees in the divisions should be included in the unit as well. The Employer further contends that certain employees in a sixth division – quality assurance – must be included in the unit; namely QATs and document control employees.<sup>2</sup> The parties stipulated that team leaders in the quality assurance division should not be included in the unit.

Five of the six divisions at issue (the sixth being the quality assurance department, discussed separately) are similarly organized. Each division is headed by a single manager, and under that person there may or may not be department managers, depending on the size and complexity of the division. Under the department managers are shift supervisors. Most shift supervisors have one or two team leaders who report to them, and the team leaders in turn assign and direct the work of the P&M employees -- operators, inspectors, shipping and receiving, maintenance and tool room workers. All shift supervisors and their superiors are exempt-salaried (“ES”) employees, and the parties have stipulated that these individuals should be excluded from the unit as supervisors. All team leaders and P&M employees are either hourly or non-exempt salaried (“NES”) employees – generally speaking, the distinction is based on skill level and/or experience. Despite their title, NES employees are paid at an hourly rate.

The quality assurance division is organized differently from the other five divisions at bar. The division is headed by a manager, and under that person are four team leaders. The team leaders supervise the remaining employees, including the QATs and document control employees. As noted above, the parties agree that team leaders in

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<sup>2</sup> The parties agree that employees in the remaining four divisions, Human Resources, IGT Engineering, Controls, and Sales, are not included in the unit.

the quality assurance division should be excluded from the unit as supervisors as well as professionals under the Act. The QATs and document control employees are NES employees.

### Benefits/Personnel Policies

Many of Howmet's benefits and personnel policies apply to all employees plant-wide. Among these are the Employer's medical, dental, vision and prescription insurance plans, as well as its vacation, holiday, floating holiday, leave of absence, conduct/discipline, employee complaint, harassment, and tuition reimbursement policies. All employees may also share cafeterias, break rooms, and rest rooms. Some benefits/personnel policies apply to all NES and hourly employees but not to ES employees. All hourly and NES employees punch a timeclock, are eligible for overtime and other premium pay, receive annual bonuses based on the same plant productivity performance criteria, get the same amount of paid and unpaid sick leave, and see job postings via the same job posting policy.

There are some differences between NES and hourly employees with regard to personnel policies. The two groups have different pension plans. NES employees are eligible for long term disability benefits, while hourly employees are not. NES employees are paid twice per month; hourly employees once per week. The two groups have different pay scales, and while hourly employees receive raises based on seniority, NES employees' raises are based on performance evaluations.

Team leaders in the production and maintenance areas have some different benefits than the operators/inspectors with whom they work. They have a badge which allows them access to the plant's administrative area. They have reserved parking no matter how long they have worked for Howmet; other hourly/NES production and maintenance ("P&M") employees are not eligible for reserved parking unless they have 25 years' seniority. Team leaders have desks on the production floor, and have access to the Employer's computer system. Finally, team leaders are paid differently from the other hourly/NES P&M employees in their department. Hourly team leaders are paid \$0.50 more per hour than the highest earning hourly employee in their department. NES team leaders receive a \$0.50 per hour raise when they attain their position.

Likewise, QATs and document control employees have some unique terms and conditions of employment relative to the petitioned-for unit. While the P&M employees (as well as team leaders and some shift supervisors) work first, second, or third shifts, QATs and document control employees work first (day) shift only. P&M employees and team leaders get a 30 minute paid lunch break; QATs and document control employees receive a one hour unpaid lunch. Like P&M team leaders, these employees have reserved parking regardless of seniority. Finally, like P&M team leaders but unlike the petitioned-for employees, QATs and document control employees have access to the administrative section of the facility; indeed, they have desks in the “administrative bullpen.” QATs spend about 40% of their time at these desks, while document control employees spend approximately 90% of their time there.

#### Operations: An Overview

Howmet receives very specific customer orders for parts to be manufactured to precise specifications. When an order comes in, quality assurance engineers work to create detailed work instructions (also known as product criteria) on how to manufacture each part. These instructions are drafted by engineers (whom the parties agree are excluded from the unit) and then sent to document control for word processing. Once the work instructions have been reviewed and finalized, the P&M employees can commence work on a part.

Manufacturing castings at Howmet is an extremely technical, multi-step process. Operators in several departments work to produce the castings using a variety of tools and machines. Some of the operators’ work is highly skilled, requiring certification on particular equipment, while other work involves machines which are largely automated. Because the parts manufactured by the Employer are integral to the functioning of aircraft and power generators, Howmet employs inspectors to work on the production line, conducting detailed inspections using sophisticated tools at several points in the manufacturing process. The inspectors are P&M employees whom the parties agree belong in the unit. Operators and inspectors work from two sets of documents. The first is the work instructions described above, which explain how to manufacture each particular part. The second set of documents is called activity instructions, which

generally explain each step of the manufacturing process – *i.e.* what is expected at each step along the production line. A book containing activity instructions which relate to the relevant stage of production is permanently kept at each machine/workstation.

Team leaders oversee each step of the production process. Responsible for a certain department, they assign work to employees during a shift and make sure the production process runs smoothly. They ensure that the operators and inspectors have the tools and equipment they need, and they readjust assignments as necessary to maintain maximum productivity. They also may move parts between workstations in a department, as well as from one department to another.

After a product is manufactured, it goes through additional rounds of inspections by both inspectors and QATs. QATs physically perform some inspections themselves; additionally, they order audits on a certain percentage of randomly selected parts. Those parts are sent back to the inspectors on the production line for further scrutiny. QATs spend the bulk of their time on the plant floor in the department at the end of the production line – final verification and packaging – however, they also perform work at other points along the production line. QATs also review documentation associated with each product to make sure it has been manufactured according to the customer's specifications. Finally, the product is shipped out.

#### Production and Maintenance Team Leaders

There are approximately 40 team leaders in the Employer's P&M divisions.<sup>3</sup> P&M team leaders work at the plant during every shift, but each department may not have a team leader during every shift.<sup>4</sup> Team leaders arrive at the plant 30 minutes to an hour before the start of their shift. When they arrive they review the daily customer requirements schedule, which they receive either from the shift supervisor or obtain

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<sup>3</sup> Apparently there are three levels of team leader – Team Leader I, II, and III. However, no evidence was presented to show what differences, if any, exist between the levels.

<sup>4</sup> The same is true of shift supervisors – for example, on third shift one of the departments may be operating with a team leader but without a supervisor, although there are other supervisors on the production floor. Similarly, a department may be operating with a shift supervisor but without a team leader, although there are other team leaders on the production floor. This is the exception, however; generally each department is staffed by a team leader for all shifts.

directly from the computer system. The customer requirements schedule, which is created by management, records jobs by number and lists a due date.<sup>5</sup> The due dates are arranged by week, ranging over a six-month period, and include overdue jobs. According to Structural Division Manager John Klepeisz, this schedule “helps [team leaders] prioritize the work as far as what is required to meet the customers’ requirements.” The team leader also performs a physical inventory of the parts in his/her department prior to the start of each shift. (S)he walks through the department and sees where each part is along the production line in that department, then creates a document reflecting the location of each part.<sup>6</sup> Finally, team leaders attend “turnover” or “start-up” meetings at or immediately before the beginning of the shift. Team leaders from the shift which is ending attend these meetings as well. Supervisors generally run the meetings, and department managers, production planning employees, sales people and operators/ inspectors may or may not attend. John Klepeisz testified that the purpose of the meetings is to facilitate “communication from shift-to-shift to verify where the parts are and what has been done in the prior shift and what is felt needs to be done in the next shift to meet these schedules.”

Armed with the customer requirements schedule, the physical inventory, and the information imparted at the turnover meeting, as well as his/her knowledge of operator skill level, certification and availability, the team leader then determines where to assign operators and inspectors for the shift, and in what order the operators/inspectors should work on the parts in their assigned area.<sup>7</sup> This process

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<sup>5</sup> A “job” may include many different parts.

<sup>6</sup> It appears that in some departments the team leader actually creates this document while in others (s)he gets a computerized printout generated daily by the facility’s production planner. In either case, the team leader conducts a physical inventory to see exactly where in the sequence of production each part is located, and what further work needs to be performed on that part in his/her department.

<sup>7</sup> Again, this practice varies slightly between departments. The testimony of John Klepeisz, Structural Division Manager, suggests that in the HSC departments, team leaders make assignments at the end of their shift for the following shift, while IGT division managers Gary Lawson and John Tarnacki testified that in their divisions, (where the majority of P&M employees work) team leaders make assignments at the beginning of their shift, for that shift. In either case, there is no dispute that the team

can get quite complicated: during the evening shift in the IGT metal cell department, for example, a single team leader must assign 25-30 employees to work on eight or nine types of machines, not all of whom are qualified to work on any one machine. The team leaders alone assign work for the shift; there is no evidence that any other employee participates in this task. After completing the assignments, the team leader writes them on a large board in the department. Operators and inspectors check the board for their initial assignments at the start of the shift.

Assignments change throughout each shift, each day. They change for a variety of reasons: an operator finishes work on a part; a customer calls with an emergency order; a bottleneck occurs somewhere along the production line; someone discovers a defect or flaw in a product; a piece of equipment breaks down; or an operator goes home sick. When any of these things occur, the team leader, again acting alone, reassigns work according to the same criteria listed above. Team leaders have the authority to reassign operators/inspectors to other departments, if necessary, during the course of a shift. These transfers are not permanent.

Team leaders are also involved in overtime work. Each week, shift supervisors and department managers determine necessary overtime and post a sign-up list in the departments. In the event that employees don't sign up for enough overtime to cover the requirements, team leaders solicit P&M employees to work overtime. In addition to the weekly overtime sign-ups, ad hoc overtime work often arises at the end of a shift. For example, if an operator needs to work overtime in order to get a part out on schedule, the team leader may approve that overtime without discussing it with a supervisor. The record contains no evidence, however, that team leaders can require overtime.

Shift supervisors make it clear to P&M employees that they are to follow their team leaders' directions during the course of the shift. If employees are insubordinate to team leaders, the team leaders report the behavior to a shift supervisor. Valerie Ward and Cleophus Bailey testified that they had been parties

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leader is the person creating the work assignments for his/her department throughout the day.



to different conversations about insubordination to a team leader, wherein the shift supervisor instructed the employee that the team leader was in charge and the employee should do what the team leader said. There is no evidence that formal discipline has resulted from employees' insubordination to their team leaders, or to their shift supervisors, for that matter.

The team leaders perform a variety of functions in addition to scheduling and assigning work. They are responsible for ensuring the operators and inspectors have the tools and equipment they need. If an operator or inspector needs additional material, the team leader may go to the Central Stores area of the facility to procure it. Operators and inspectors may get the material themselves, but they must have a signed authorization form from the team leader. Additionally, team leaders move parts between workstations within their department and between departments. Operators and inspectors also move product. Third, team leaders ensure the operators/inspectors in their department have work instructions (also known as product criteria), detailing the customer specifications for manufacturing each part. Team leaders receive work instructions from the document control employees in one of two ways; either they go to the administrative area and pick them up there,<sup>8</sup> or the document control employees may put the work instructions in a mailbox area on the production shop floor for team leaders to pick up and distribute. Fourth, team leaders may perform production work alongside operators/inspectors. While they do not have the skill to perform all of the work in their department, they are expected to learn the production methods and to be proficient on at least 50% of the equipment in their areas. Team leaders spend anywhere from 10% to 50% of their time in production work. Finally, team leaders are part of the Employer's "structural help" chain.<sup>9</sup> If operators or inspectors have a problem such as broken equipment, a part which is not conforming to manufacturing specifications, or perhaps is just falling behind in their work, they contact the team leader to try to resolve the problem. Team leaders will assess the situation, try to understand the

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<sup>8</sup> Team leaders, unlike the petitioned-for P&M employees, have access to this area through their magnetized badges.

<sup>9</sup> In some departments, but not all, there are posters on the wall with pictures of the people in the help chain. Team leaders' photographs are on these posters.

problem and see if they can help. If team leaders can resolve the problem, they will; if not, the team leader will go to the next step of the structural help chain – perhaps a supervisor or an engineer, depending on the nature of the problem. The structural help chain leads all the way up to the plant manager. The structural help chain does not apply to employee concerns or complaints about Company policies or procedure; those concerns are brought to supervisors, not team leaders.

Team leaders also field requests for vacation and other time off. Howmet allows hourly and NES employees' time off under several different categories: vacation; sick leave; floating holidays; paid and unpaid personal days; and leave for situations like jury duty and bereavement. Team leaders and/or supervisors must allow employees to take time off so long as the employee has a leave balance. Team leaders do not keep track of employee balances or check an employee's balance when (s)he calls in for leave; upon an employee's representation that (s)he has leave time available in the category (s)he seeks, the team leader must grant the leave request.<sup>10</sup>

Some team leaders have access to the Employer's time and attendance (T&A) records in the Company's computer system. Human Resources Manager William Lennon testified that supervisors have authorized nine of the P&M team leaders to see and make changes to that system. Robert Henry testified that if an employee punches in 10 minutes too early, for example, his team leader will go into the time and attendance system on the computer and change the employee's punch-in time.

According to Human Resources Manager William Lennon, P&M team leaders do not fill out performance evaluations or meet with employees to discuss those evaluations. However, Lennon testified team leaders do have input into the performance evaluations for employees in their department. While hourly

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<sup>10</sup> The procedure is slightly different for vacation. If an employee calls asking for a vacation day, the team leader must check the department's vacation book. The book lists the number of employees in each job classification who may be out on vacation on any given day. If fewer than that number are out on vacation when the call comes in, the team leader must approve the request; if the maximum number of employees for the job classification at issue has already put in for vacation leave, the team leader must deny the request.

employees receive performance evaluations, their raises are based on seniority rather than merit. However, NES employees receive raises based on merit. Lennon testified that “[w]e get a budget figure for the, for the facility, or what the target number is going to be. Also, we do salary surveys, what's happening in the community...And then a performance evaluation from the previous year is completed. And based on the overall rating of that individual, that will have an effect on the percentage of increase that they would get.” Based on these factors, Human Resources and the P&M department managers determine the amount of the raise for NES employees.<sup>11</sup>

There is no evidence that team leaders play any role in employee suspensions, layoffs, recalls, or discharges. The Union presented evidence that two team leaders had been involved in recommending temporary employees for hire as permanent employees – one in 2000 and one in 2001. No more recent evidence was adduced on this point.

Team leaders are peripherally involved in Howmet’s disciplinary process. The Company allows for pre-disciplinary counseling sessions, otherwise known as Records of Conversation. While the Employer documents the Records of Conversation, they are not considered disciplinary actions. Team leaders are authorized to conduct counseling sessions and document them as a Record of Conversation. For more serious infractions, or repeated rule violations following a counseling session, the Employer has a progressive disciplinary policy: written discussion; first written warning; final written warning; termination. Team leaders witnessing improper behavior may bring the matter to the shift supervisor’s attention. Supervisors fill out the disciplinary form, possibly with assistance from team leaders.<sup>12</sup> Supervisors sign the forms; team leaders may co-sign them as well. Department supervisors then review the disciplinary forms, sign them,

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<sup>11</sup> Additionally, several of the Petitioner’s witnesses testified that, as former team leaders, they had been intimately involved in the performance evaluation process for P&M employees in their department. However, these witnesses did not testify as to whether these employees were hourly or NES employees.

<sup>12</sup> Human Resources Manager Lennon and department managers Klepeisz, Lawson and Tarnacki testified that they had never seen a disciplinary form completed by a team leader. The Union introduced one written discussion from 2004, executed by a team leader but no shift supervisor.

and pass them to Human Resources. Human Resources then meets with the supervisor to discuss the incident further; team leaders are not involved in these meetings unless they witnessed the event, and then only if the supervisor or Human Resources determines they are needed in their capacity as eyewitness. Finally, a Human Resources representative determines the level of discipline to be imposed, signs off on the disciplinary form, and authorizes the supervisor to issue the discipline to the employee.

#### Quality Assurance Technicians (Including Quality Systems Technician and Quality Auditor)

According to Quality Assurance Division Manager Paul Tasca, the function of his department is to “set up, provide and maintain systems and controls to insure that we comply with all industry and contractual requirements.” To that end, QATs monitor and audit product through the manufacturing process by examining the product, itself, as well as the documentation which accompanies it. QATs spend about 60% of their time on the production floor testing, auditing, and monitoring product. The vast majority of this floor time is spent in departments approaching the end of the production line, as the product is verified, X-ray’d, put through a final finishing and machining process, and then verified, again, before being packed for shipping.

When testing product, QATs perform very similar – indeed, duplicative – functions as the inspectors located in the P&M departments. QATs may conduct the simpler tests themselves, using tools such as micrometers, calipers and gauges; however, they are generally not certified to conduct the more sophisticated tests and, in those circumstances, will reroute the part, at issue, back to the appropriate inspector. If a QAT discovers a problem with a part, (s)he fills out a non-conformance slip and stops production.<sup>13</sup> At this point, engineers are called in to determine the source of the problem. Engineers determine whether it is possible to rework the product, then, if the part can be reworked, they discuss with the QATs the rework and subsequent reinspections that will be needed. The QATs’ auditing function consists of selecting

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<sup>13</sup> This responsibility is not limited to QATs – *any* employee discovering a potential problem with a part has the authority to stop the job and fill out a non-conformance slip.

product at random, in various stages of the production process, and having it rerouted for additional rounds of testing/inspection.

The remainder of the QATs' work time (40%) involves review of documentation for the manufactured product. QATs review documents produced during the production process to ensure that the part has been properly completed in the correct operational sequence and according to the appropriate specifications. Additionally, if flaws or non-conformities have been discovered in the part at any point in the production process, the QAT reviews and analyzes all documentation related to the problem to make sure the product has been properly reworked and reinspected according to instructions from the engineers. This portion of the QATs' job duties takes place in the administrative bullpen, where they have desks.

Howmet employs one Quality Auditor ("QA") and one Quality Systems Technician ("QST"). While QATs monitor and audit the plant's product, the QA monitors and audits its processes. The QA moves throughout the plant viewing production employees at work and determines whether production employees have the necessary paperwork (activity instructions, which generally explain each step of the manufacturing process – *i.e.* what is expected at each step along the production line, and work instructions, which explain the particular manufacturing requirements for each individual part), whether the paperwork is accurate and complete, and if the employees are properly executing their activity and work instructions. The QA spends 70% to 75% of his work time on the production floor.

The QST is responsible for organizing, maintaining and controlling Howmet's flawed/non-conforming product. There is a specific area designated in the plant where the non-conforming product is maintained. The QST moves product in and out of this area, removing it from the production floor after problems are discovered, accepting returns of non-conforming product from customers, and returning parts to the production floor to be reworked.

#### Document Control Employees

Document control personnel are responsible for formatting and formalizing both work instructions/product criteria (these are job specific, as described in more detail

*supra*) as well as activity instructions (these are general instructions relating to a particular step of the production process, as described *supra*) and distributing the documentation to the applicable work areas in the plant.<sup>14</sup> As discussed more fully above, operators and inspectors receive work instructions for each part they touch; the work instructions explain the manufacturing and customer specifications pertaining to each specific job. Work instructions are drafted by Howmet's engineers, who the parties agree should not be included in the unit. Activity instructions provide production employees with a detailed description of how to perform a particular manufacturing operation, and the materials and variables to consider in completing that operation. Activity instructions are kept in binders at each workstation along the production line. They may be drafted and updated by operators, inspectors, team leaders or shift supervisors, who may then work with document control employees to make sure the activity instructions are properly finalized and distributed. Document control employees spend the vast majority of their time at their desks located in the administrative bullpen area.

### **Analysis: Supervisory Issue**

Section 2(11) of the Act, 29 U.S.C. Section 152, provides:

The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 2(11) is to be read in the disjunctive; the possession of any one of the authorities listed is sufficient to place an individual invested with this authority in the supervisory class. *Mississippi Power Co.*, 328 NLRB 965, 969 (1999), citing *Ohio Power v. NLRB*, 176 F.2d 385, 387 (6th Cir. 1949), cert. denied 338 U.S. 899 (1949). Applying Section 2(11) to the duties and responsibilities of any given person requires the Board to

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<sup>14</sup> The record revealed that team leaders often go to the document control employees' desks and pick up the instructions, thus relieving the document control personnel of this job duty.

determine whether the person in question possesses any of the authorities listed in Section 2(11), uses independent judgment in conjunction with those authorities, and does so in the interest of management and not in a routine manner. *Hydro Conduit Corp.*, 254 NLRB 433, 437 (1981). Thus, the exercise of a Section 2(11) authority in a merely routine, clerical or perfunctory manner does not confer supervisory status. *Chicago Metallic Corp.*, 273 NLRB 1677 (1985). As pointed out in *Westinghouse Electric Corp. v. NLRB*, 424 F.2d 1151, 1158 (7th Cir. 1970), cited in *Hydro Conduit Corp.*: "the Board has a duty to employees to be alert not to construe supervisory status too broadly because the employee who is deemed a supervisor is denied employee rights which the Act is intended to protect." See also *Quadrex Environmental Co.*, 308 NLRB 101, 102 (1992). In this regard, employees who are mere conduits for relaying information between management and other employees are not statutory supervisors. *Bowne of Houston*, 280 NLRB 1222, 1224 (1986).

The party seeking to exclude an individual from voting for a collective-bargaining representative has the burden of establishing that the individual is ineligible to vote. *Kentucky River Community Care, Inc.*, 121 S.Ct. 1861, 1867 (2001). Conclusory evidence, "without specific explanation that the [disputed person or classification] in fact exercised independent judgment," does not establish supervisory authority. *Sears, Roebuck & Co.*, 304 NLRB 193 (1991). Similarly, it is an individual's duties and responsibilities that determine his or her status as a supervisor under the Act, not his or her job title. *New Fern Restorium Co.*, 175 NLRB 871 (1969).

I find the Petitioner has met its burden of establishing that the team leaders are supervisors, and therefore must be excluded from the bargaining unit. Specifically, I find that the P&M team leaders have the authority to assign and responsibly direct the employees in their department using independent judgment in the interest of the Employer.<sup>15</sup> *Monongahela Power Co. v. NLRB*, 657 F.2d 608, 613 (4<sup>th</sup> Cir. 1981)(control room foremen responsibly direct other employees and in doing so utilize independent judgment despite the fact that they do not exercise authority with regard to hiring, discharge, transfer, promotion, recall, discipline, or adjustment of grievances of other employees); *Facchina Construction Co., Inc.*, 343 NLRB No. 98, slip.op. at 13-14 (2004)(same); *American Commercial Barge Line Co.*, 337 NLRB 1070 (2002)(same). Team leaders integrate their knowledge of product deadlines, project complexity, worker skill level and

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<sup>15</sup> I do not find that the team leaders possess any other primary indicia of statutory authority.

employee availability to make initial work assignments during a shift. The record reveals that they must juggle competing priorities in making these assignments – department manager John Klepeisz testified that “on a typical day, we would have more parts than we would have personnel.” Then, based on shifting conditions, team leaders must reassign work multiple times throughout each and every shift. Again, in reassigning work the team leaders must assess factors as diverse as operators finishing work on a part, customers calling with emergency orders, bottlenecks occurring somewhere along the production line, someone discovering a defect or flaw in a product, a piece of equipment breaking, or an operator going home sick. The record shows that team leaders regularly confront each of these situations as part of the Employer’s “structural help chain”. While taking initial responsibility for trying to resolve these problems, team leaders retain sole responsibility for transferring and reassigning workers to maintain and maximize production efficiency. There can be no dispute that team leaders assign work. The evidence reveals that in doing so, they direct P&M employees using independent judgment in the interest of the Employer. *DST Industries, Inc.*, 310 NLRB 957 (1993); *Inland Steel Company*, 308 NLRB 868, 881 (1992); *Rose Metal Products*, 289 NLRB 1153 (1988).

While assignment and direction of work are the team leaders’ only primary indicia of supervisory status, other factors further support the exclusion of team leaders as supervisors. “Where the possession of any one of the aforementioned powers is not conclusively established, or ‘in borderline cases’ the Board looks to well-established secondary indicia [of supervisory status].” *St. Barnabas Medical Center*, 343 NLRB No. 119 (2004). These secondary indicia include whether purported supervisors have authority to grant overtime, receive benefits not granted to other employees, keep time records for other employees, are regarded by other employees as supervisors, and finally, whether including the disputed employees would result in an improbable ratio of supervisors to non-supervisory employees. *Id.*, see also *S.D.I. Operating Partners, L.P.*, 321 NLRB 111 (1996)(authority to grant overtime); *American Commercial Barge Line Co.*, 337 NLRB 1070 (2002)(better benefits); *J.C. Brock Corp.*, 314 NLRB 157, 160 (1994)(make changes to employees’ time records); *Aardvark Post*, 331 NLRB 320 (2000)(perceived as supervisors); *NLRB v. Grancare, Inc.*, 170 F.3d 662, 667 (7<sup>th</sup> Cir.



1999)(improbably low ratio of 59 supervisors to 90 non-supervisors militates against finding supervisory status).

All of the above-mentioned secondary indicia of supervisory status are present in this case. As noted *supra*, team leaders spend as little as 10% of their time performing production work, and no more than 50% of their time doing so. In addition team leaders have the authority to grant ad hoc overtime at the end of a shift without checking with anyone else at the plant. The team leaders receive benefits the other employees in their departments do not, such as a pay increase, reserved parking regardless of seniority, desks, access to the Employer's computer systems, and security badges allowing them to enter areas of the plant where other employees in their department can not go. Third, at least nine of the team leaders have access to the Employer's computerized time and attendance systems, and the record contains uncontradicted testimony that if an operator or inspector clocks in too early the team leader can, and does, use the system to change the employee's punch-in time to the start of the shift. The record further shows that team leaders are perceived as supervisors. Three of Petitioner's witnesses testified that shift supervisors told P&M employees to listen to the team leader, that the team leader was in charge, and that the team leader spoke for the supervisors when the supervisors were not present. Further, shift supervisors orally warn P&M employees for being insubordinate to their team leaders. Finally, finding the team leaders to be supervisors would not result in an improbable ratio of supervisors to non-supervisory employees. While the record does not provide exact numbers for all departments at issue, some evidence regarding individual departments exists. In the IGT metal cell department (department 5), there are 35 – 40 operators and inspectors on the first shift, as well as two team leaders and one shift supervisor. On the second shift there are 25 – 30 operators/inspectors, one team leader and one shift supervisor. On the first shift in IGT casting department (department 26), one team leader is responsible for 17 operators/inspectors. Finally, one team leader is responsible for 18 operators/inspectors in the IGT finishing area (department 30). These numbers represent an entirely credible ratio of supervisors to non-supervisory employees.

The cases cited by the Employer, which argues that the team leaders do not assign or direct work using independent judgment, are inapposite. In *Sears, Roebuck & Co.*,

292 NLRB 753 (1989), for example, the Board found that a lead receiver exercised no supervisory authority. Unlike this case, however, the work in *Sears* consisted entirely of routine receiving and unloading of trucks. Employees were trained to perform the work in one day, and after that worked independently. Indeed, the alleged supervisor in that case often did not even assign work – employees would work alone or volunteer to collaborate on unloading a truck without being assigned by the purported supervisor. *Tree-Free Fiber Co.*, 328 NLRB 328 (1999), is similarly distinguishable. In that case the Board found that a yard maintenance team leader did not exercise independent judgment in “respond[ing] to requests from other departments in the Company for his team's services -- he must decide, for example, when the grass and bushes will be cut, when the trees will be trimmed, and when rooms will be swept.... His decisions are routine responses to predictable, recurring work-assignment issues.” *Id.* Unlike the yard maintenance team leader in *Tree-Free*, the team leaders in the instant case assign and direct work in a highly complex operation, where the smallest problems with a part can lead to catastrophic consequences. They exhibit far more discretion in putting together a much greater variety of far more complicated variables than do the leadmen in cases cited by the Employer – in short, the P&M team leaders at Howmet must use independent judgment in assigning and directing work. See, e.g., *Sun Refining & Marketing Co.*, 301 NLRB 642, 649 (1991)(the size, complexity, and cargo carried by a supertanker was a factor in determining that the disputed licensed officers working aboard the supertanker exercised responsible direction). Similarly, this case is easily distinguishable from *Byers Engineering*, 324 NLRB 740 (1997)(leadman not a supervisor where the only factor he could consider in assigning work was the equitable distribution of the workload) and *Dynamic Science, Inc.*, 334 NLRB 391 (2001)(test leaders have no discretion to prioritize work assignments).

Based on the foregoing, I find that the Petitioner, as the party asserting supervisory status, has met its burden in proving that the P&M team leaders have the authority to assign and responsibly direct other employees, and that they utilize independent judgment in the execution of such functions. *Kentucky River Community Care, Inc.*, 121 S.Ct. at 1867. Therefore, I find that the P&M team leaders are supervisors within the meaning of Section 2(11) of the Act. Accordingly, I will exclude the P&M team leaders from the unit.

#### **Analysis: Quality Assurance Technicians**

Section 9(b) of the Act states the Board “shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof....” The statute does not require that a unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit. Rather, the Act only requires that the unit be “appropriate.” *Overnite Transportation Co.*, 322 NLRB 723 (1996); *Parsons Investment Co.*, 152 NLRB 192, fn. 1; *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950), enf’d. 190 F.2d 576 (7<sup>th</sup> Cir. 1951).

It is well settled that there is more than one way in which employees of a given employer may appropriately be grouped for purposes of collective bargaining. *General Instrument Corp. v. NLRB*, 319 F.2d 420, 422-3 (4<sup>th</sup> Cir. 1962), cert. denied 375 U.S. 966 (1964); *Mountain Telephone Co. v. NLRB*, 310 F. 2d 478, 480 (10<sup>th</sup> Cir. 1962). The petitioning union's choice of a unit is always a relevant consideration, but the union's choice cannot be dispositive. *Marks Oxygen Co.*, 147 NLRB 228, 230 (1964). Community of duties and interests of the employees involved is the major determinant. *Swift Co.*, 129 NLRB 1391 (1960). If there is a sufficient community of interest among employees, the fact that groups of employees have different duties and responsibilities does not make a combination of those employees inappropriate. *Berea Publishing Co.*, 140 NLRB 516, 518 (1963). Relevant considerations include: (a) the degree of functional integration among the employee classifications; (b) common supervision; (c) nature of employee skills and functions; (d) interchange and contact among employees; (e) work sites; (f) general working conditions; and (g) fringe benefits. The Board applies these traditional community of interest criteria to quality assurance employees. *Blue Grass Industries*, 287 NLRB 274 (1987).

Applying the factors above to the facts developed on the record in this case, I find that the QATs as well as the QA and QST must be included in an appropriate unit for bargaining. As described in more detail above, the QATs spend a significant amount of time working alongside P&M operators and inspectors, monitoring, inspecting and auditing the parts that are being manufactured. Their job duties are, in some respects,

actually identical to the inspectors' work. They have substantial contact with production employees, spending over half of their time on the production floor. The quality assurance employees at issue are not required to have any education, training, or skills which differ from that of the petitioned-for employees. Their pay is within the range of the petitioned-for employees – indeed, it appears to be on the lower end of that range – and their benefits are materially identical. While quality assurance employees are separately supervised, this should not overcome their community of interest with the P&M employees with whom they work. As discussed above, the petitioned-for employees span five different divisions within the plant, each with its own supervisory personnel. In addition, the role of the QATs, QA, and QST is vital to the production process. These employees ensure that the products produced at the plant are high-quality and manufactured to precise, exacting standards. In an industry where the smallest non-conformance in a part could have catastrophic consequences, the relationship between quality control and the production process is especially close and vital. While not a traditional factor in determining community of interest, the Board has consistently looked at the importance of quality control jobs in the overall manufacturing process in determining whether to include these employees in P&M units. See, e.g., *Bennett Industries, Inc.*, 313 NLRB 1363 (1994)(quality control employees included within P & M unit by Regional Director because they perform a function which is an extension of and integrated with the manufacturing process and work in close proximity to undisputed unit employees); *Hogan Mfg., Inc.*, 305 NLRB 806 (1991)(quality control employee included within P & M unit because "quality control is a vital part of the production process"); *Blue Grass Industries, Inc.*, 287 NLRB 274 (1997)(quality control employees included within P&M unit because they are an "integral part of the overall manufacturing process"); *Libbey Glass Division*, 211 NLRB 939, 941 (1974)(quality control employees included within P&M unit because "it is clear these employees have substantial contact with production and maintenance employees in performing their inspection functions, and their duties are an integral part of the Employer's overall glass manufacturing process"). Further, the Board has sometimes included quality control workers in P&M units in cases where the Union sought to exclude these personnel. *Ambrosia Chocolate*, 202 NLRB 788 (1973). But see *Lundy Packing Co.*, 314 NLRB 1042 (1994), enf. denied 68 F.3d 1577 (4<sup>th</sup> Cir. 1995).

The Petitioner's contention that the QATs, QA, and QST should be excluded from the bargaining unit as technical employees is unsupported by the record. Workers are generally excluded from P&M bargaining units as technical employees when their work requires the use of independent judgment and the exercise of special training usually acquired in colleges or technical schools, or through specialized courses. *Audiovox Communications Corp.*, 323 NLRB 647 (1997); *Folger Coffee Co.*, 250 NLRB 1 (1980). The employees at issue here meet neither of these criteria. The record revealed no evidence that the QATs, QA, or QST utilize independent judgment. While QATs are authorized to stop jobs and write non-compliance forms in the event they discover a problem with a part, the evidence revealed that any employee may do the same thing, and in fact, any employee discovering a possible flaw in the product is required to stop the job. With respect to their auditing function, QATs randomly select a certain percentage of product, as required by pre-determined Company policy, to be rerouted for further inspection. Similarly, there is no evidence to show the QA or QST use independent judgment in performing any of their job duties. With respect to the second criteria, special training, there is again no evidence to show any of the disputed quality control employees receive such training. While the job description for QATs states that an associate degree or two year technical degree is required for the position, division manager Paul Tasca presented undisputed testimony that the job description is inaccurate. Rather, the qualifications for these positions are identical to those for many of the operators and inspectors, and indeed, some quality technicians have transferred to these positions from the manufacturing floor.

Based on the foregoing, I find that the QATs, QA, and QST share a strong community of interest with the petitioned-for unit. I further find that they are not technical employees and must be included in an appropriate unit.

#### **Analysis: Document Control Employees**

As the Board has stated, "the distinction between office clericals and plant clericals is not always clear." *Hamilton Halter Co.*, 270 NLRB 331 (1984). The test generally is whether the employees' duties are related to the production process (plant clericals) or related to general office operations (office clericals). Plant clerical

employees are customarily included in a production and maintenance unit because they generally share a community-of-interest with the employees in the plantwide unit.

*Raytec Co.*, 228 NLRB 646 (1977); *Armour & Co.*, 119 NLRB 623 (1957). The Board applies community of interest factors to determine whether to include clerical employees in a bargaining unit with warehouse personnel. *NLRB v. Big Three Industries, Inc.*, 602 F.2d 898, 902-03 (9th Cir. 1979). Office clericals, on the other hand, are excluded from a production and maintenance unit. *Hygeia Coca-Cola Bottling Co.*, 192 NLRB 1127, 1129 (1971); *Westinghouse Electric Corp.*, 118 NLRB 1043 (1957).

The Employer argues that the document control employees are plant clericals who must be included within an appropriate bargaining unit. The Employer contends that the clerical employees at issue perform duties that are intimately related to the production process --preparation of the work and activity instructions the operators and inspectors use every day, in every job they perform. Additionally the Employer contends that a number of community of interest factors support the inclusion of the clerical employees in the petitioned for unit, including, among other things, comparable wages, same basic educational requirements and same benefits.

The Petitioner does not argue that the document control employees are clericals of any kind. Rather, the Petitioner contends that they are technical employees and must be excluded from the bargaining unit on that basis. Based upon a careful review of the record in the instant case, I find that all of the clericals at issue are plant clerical employees who regularly perform tasks that are functionally integrated with the production process. They are not technical employees. Therefore, the clerical employees at issue shall be included in the unit found appropriate.

Document control employees share the same wages and benefits as the QATs and the other NES P&M employees. Indeed, document control employees actually earn less than many of the employees on the production floor. The basic educational requirements for document control employees mirror that for the other employees in the unit. The document control employees have substantial contact with the QATs, working in cubicles alongside them in the administrative bullpen. In addition, they have access to the production floor to distribute work and activity instructions. More importantly, the document control employees' daily duties are closely related to the *production* process,

not to the administrative functioning of the plant. These employees' primary job duty is to prepare and distribute work instructions and activity instructions. As explained in more detail above, and as testified to by several witnesses at hearing, these documents are the "Bibles" of the production floor. They provide the operators and inspectors with essential information about how to perform their jobs, every day. In fact, the activity instructions are created by unit employees, who work with the document control employees to finalize them. As quality assurance manager Paul Tasca testified, the manufacturing process could not exist without work and activity instructions. Thus, the document control employees fulfill both prongs of the plant clerical test: they share a community of interest with employees in the P&M unit; and their duties are related to the production process, not general office operations. *Kroger Co.*, 342 NLRB No. 20 (2004). For the foregoing reasons, they should be included in the P&M unit.

Petitioner's claim that document control employees must be excluded from the unit as technical employees must fail. As noted in the QAT analysis above, the hallmarks of technical employees are the use of independent judgment and the exercise of special training usually acquired in colleges or technical schools, or through specialized courses. The record is utterly devoid of evidence that the document control employees perform either of these functions. They perform word processing and formatting duties, and play no role in drafting any of the documents they type. Further, the only training or education required for the document control position is a high school diploma. Thus, I find that document control employees should not be excluded as technical employees.

Since the unit that I find appropriate is broader than the petitioned-for unit, the Petitioner is granted fourteen (14) days from the date of this Decision to make an adequate showing of interest, if necessary. Should the Petitioner not wish to proceed to an election in the broader unit it will be permitted, upon request, to withdraw its petition without prejudice.

## **CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. Petitioner, United Steelworkers of America, District 8, AFL-CIO, CLC, a labor organization as defined in Section 2(5) of the Act, claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The parties stipulated that Howmet Castings & Services, Inc., a Delaware corporation, is engaged in the manufacture of investment castings at its Hampton, Virginia, facility. During the past 12 months, a representative period, the Employer has purchased and received products, goods, and materials at its Hampton, Virginia, facility, products, goods, and materials valued in excess of \$50,000, directly from points outside the State of Virginia.

6. There is no relevant history of collective bargaining for any of the Employer's employees.

7. I find the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees, including shipping and receiving and tool room employees, quality control technicians, quality auditors, quality systems technicians, and document control employees employed by the Employer at its Hampton, Virginia facility, but excluding temporary employees, team leaders, guards, and supervisors as defined by the Act.



## **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by the **UNITED STEELWORKERS OF AMERICA, DISTRICT 8, AFL-CIO, CLC**. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

### **A. Voting Eligibility**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the election date and who retained their status as such during the eligibility period, and the replacements of those economic strikers. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### **B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, National Labor Relations Board, Region 5, 103 South Gay Street, Baltimore, MD 21202, on or before

**May 06, 2005.** No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (410) 962-2198. Since the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

### C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

## **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDT on **May 13, 2005**. The request may not be filed by facsimile.

(SEAL)

WAYNE R. GOLD

Dated: APRIL 29, 2005

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Wayne R. Gold, Regional Director  
National Labor Relations Board, Region 5  
103 S. Gay Street  
Baltimore, MD 21202